

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANTHONY COFFMAN, individual and on
behalf of all others similarly situated,

Plaintiff,

v.

GLIDE TALK, LTD., an Israeli company,

Defendant.

Civil Action No. 1:13-cv-05190

Judge John Z. Lee

**MOTION TO DISMISS PURSUANT TO RULES 12(B)(2) AND 12(B)(6),
OR TO DEFER TO THE PRIMARY JURISDICTION OF
THE FEDERAL COMMUNICATIONS COMMISSION**

Defendant Glide Talk, Ltd. (“Glide”) moves the Court for an order dismissing with prejudice all claims in Plaintiff’s Complaint pursuant to Rules 12(b)(6) and 12(b)(2) of the Federal Rules of Civil Procedure or, in the alternative, deferring to the resolution of this matter by the Federal Communications Commission (“FCC”) under the doctrine of primary jurisdiction. In support of this motion, Glide states as follows:

1. Plaintiff’s Complaint should be dismissed under Rule 12(b)(6) because Plaintiff fails to state a plausible cause of action under the Telephone Consumer Protection Act, 47 U.S.C. § 227, as required by *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009).

2. Plaintiff’s Complaint should be dismissed under Rule 12(b)(2) because this Court may not exercise personal jurisdiction over Glide, an Israeli company that does not do business in Illinois.

3. In the alternative, in the event the Court denies Glide's Motion to Dismiss under Rules 12(b)(6) and 12(b)(2), the Court should defer to the primary jurisdiction of the FCC because (1) Plaintiff's Complaint raises issues currently pending before the FCC; (2) the issues raised in the Complaint are within the FCC's technical expertise and discretion; and (3) there is substantial danger of inconsistent rulings if this matter is not dismissed.

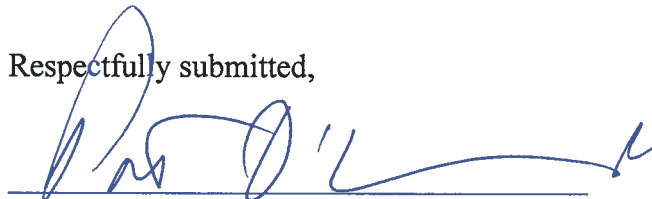
4. Glide incorporates its Memorandum of Law in Support of this Motion to Dismiss or Defer, which is filed herewith and incorporated herein by this reference.

WHEREFORE, Defendant Glide Talk, Ltd. respectfully requests this Court enter an order dismissing Plaintiff's Complaint pursuant to Rules 12(b)(6) and 12(b)(2), with prejudice, or in the alternative, deferring to the primary jurisdiction of the FCC.

October 7, 2013

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Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Thomas G. Connolly', is written over a horizontal line.

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